

SIGNED.



Dated: May 09, 2005

*Randolph J. Haines*

RANDOLPH J. HAINES  
U.S. Bankruptcy Judge

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF ARIZONA

In re	)	Chapter 7
LMA PROPERTIES, LLC,	)	CASE NO. 2:03-09946-RJH
Debtor.	)	
_____	)	
LOUIS A. MOVITZ, Trustee,	)	ADVERSARY NO. 04-00892
Plaintiff,	)	
v.	)	
GALIZ M. SHAPIRO,	)	MEMORANDUM DECISION DENYING
Defendant.	)	SUBSEQUENT NEW VALUE DEFENSE
_____	)	AND GRANTING TRUSTEE'S MOTION
	)	FOR SUMMARY JUDGMENT

Based on the analysis set forth in *In re Phoenix Restaurant Group, Inc.*, 2004 W.L. 3113719 (Bankr. M.D. Tenn. 2004), and the implications of the holding in *In re Microage, Inc.*, 291 B.R. 503 (9<sup>th</sup> Cir. BAP 2002), this Court concludes that a "subsequent new value" defense under § 547(c)(4) cannot be asserted on the basis of post-petition transfers. For that reason together with the additional findings of fact and conclusions of law stated on the record on February 8, 2005, the Trustee's motion for summary judgment should be granted. In addition, any claims, including administrative claims, asserted by or allowed to the Defendant should be disallowed until there is full payment of the preference liability together with interest at the federal judgment rate from the date of the complaint and the Trustee's costs. Counsel for the Trustee is requested to upload a form of judgment in accordance with this decision.

DATED AND SIGNED ABOVE

1 Copy of the foregoing faxed  
2 this 9th day of May, 2005, to:

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14 /s/ Pat Denk  
15 Judicial Assistant

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